

COMPLIANCE AUDIT

City of Pittston Police Pension Plan Luzerne County, Pennsylvania For the Period January 1, 2018 to December 31, 2019

March 2021



Commonwealth of Pennsylvania
Department of the Auditor General

Timothy L. DeFoor • Auditor General



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**TIMOTHY L. DEFOOR
AUDITOR GENERAL**

The Honorable Mayor and City Council
City of Pittston
Luzerne County
Pittston, PA 18640

We have conducted a compliance audit of the City of Pittston Police Pension Plan for the period January 1, 2018 to December 31, 2019. We also evaluated compliance with some requirements subsequent to that period when possible. The audit was conducted pursuant to authority derived from the Municipal Pension Plan Funding Standard and Recovery Act (Act 205 of 1984, as amended, 53 P.S. § 895.402(j)), which requires the Auditor General, as deemed necessary, to audit every municipality which receives general municipal pension system state aid and every municipal pension plan and fund in which general municipal pension system state aid is deposited. The audit was not conducted, nor was it required to be, in accordance with Government Auditing Standards issued by the Comptroller General of the United States. We planned and performed the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

The objectives of the audit were:

1. To determine if municipal officials took appropriate corrective action to address the finding contained in our prior report; and
2. To determine if the pension plan was administered in compliance with applicable state laws, regulations, contracts, administrative procedures, and local ordinances and policies.

Our audit was limited to the areas related to the objectives identified above. To determine if municipal officials took appropriate corrective action to address the finding contained in our prior report, we inquired of plan officials and evaluated supporting documentation provided by officials evidencing that the suggested corrective action has been appropriately taken. To determine whether the pension plan was administered in compliance with applicable state laws, regulations, contracts, administrative procedures, and local ordinances and policies, our methodology included the following:

- We determined whether state aid was properly determined and deposited in accordance with Act 205 requirements by verifying the annual deposit date of state aid and determining whether deposits were made within 30 days of receipt for all years within the period under audit.
- We determined whether annual employer contributions were calculated and deposited in accordance with the plan's governing document and applicable laws and regulations by examining the municipality's calculation of the plan's annual financial requirements and minimum municipal obligation (MMO) and comparing these calculated amounts to amounts actually budgeted and deposited into the pension plan as evidenced by supporting documentation.
- We determined whether annual employee contributions were calculated, deducted, and deposited into the pension plan in accordance with the plan's governing document and applicable laws and regulations by testing total members' contributions on an annual basis using the rates obtained from the plan's governing document in effect for all years within the period under audit and examining documents evidencing the deposit of these employee contributions into the pension plan.
- We determined whether retirement benefits calculated for the plan members who retired during the current audit period, and through the completion of our fieldwork procedures, represent payments to all (and only) those entitled to receive them and were properly determined and disbursed in accordance with the plan's governing document, applicable laws, and regulations by recalculating the amount of the pension benefits due to the retired individuals and comparing these amounts to supporting documentation evidencing amounts determined and actually paid to the recipients.
- We determined whether the January 1, 2017 and January 1, 2019 actuarial valuation reports were prepared and submitted by March 31, 2018 and 2020, respectively, in accordance with Act 205 and whether selected information provided on these reports is accurate, complete, and in accordance with plan provisions to ensure compliance for participation in the state aid program by comparing selected information to supporting source documentation.
- We determined whether the terms and methodologies of the issuance of pension obligation bonds by the municipality, and any restrictions, were in compliance with plan provisions and Act 205 through inquiry of plan officials and examination of supporting documentation for pension obligation bonds issued during the current audit period and through the completion of our fieldwork procedures.

City of Pittston contracted with an independent certified public accounting firm for annual audits of its basic financial statements which are available at the city's offices. Those financial statements were not audited by us and, accordingly, we express no opinion or other form of assurance on them.

City officials are responsible for establishing and maintaining effective internal controls to provide reasonable assurance that the City of Pittston Police Pension Plan is administered in compliance with applicable state laws, regulations, contracts, administrative procedures, and local ordinances and policies. As previously described, we tested transactions, interviewed selected officials, and performed procedures to the extent necessary to provide reasonable assurance of detecting instances of noncompliance with legal and regulatory requirements or noncompliance with provisions of contracts, administrative procedures, and local ordinances and policies that are significant within the context of the audit objectives.

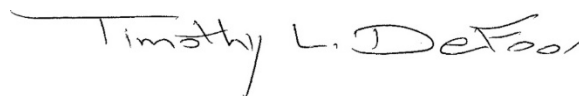
The results of our procedures indicated that, in all significant respects, the City of Pittston Police Pension Plan was administered in compliance with applicable state laws, regulations, contracts, administrative procedures, and local ordinances and policies, except as noted in the following finding further discussed later in this report:

Finding – Partial Compliance With Prior Audit Recommendation – Failure To Fully Pay The Minimum Municipal Obligation To The Plan

The finding contained in this audit report repeats a condition that was cited in our previous report that has not been corrected by city officials. We are concerned by the city's failure to correct this previously reported finding and strongly encourage timely implementation of the recommendation noted in this audit report.

The accompanying supplementary information is presented for purposes of additional analysis. We did not audit the information or conclude on it and, accordingly, express no form of assurance on it.

The contents of this report were discussed with officials of City of Pittston and, where appropriate, their responses have been included in the report. We would like to thank city officials for the cooperation extended to us during the conduct of the audit.



Timothy L. DeFoor
Auditor General

February 22, 2021

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BACKGROUND

On December 18, 1984, the Pennsylvania Legislature adopted the Municipal Pension Plan Funding Standard and Recovery Act (P.L. 1005, No. 205, as amended, 53 P.S. § 895.101 et seq.). The Act established mandatory actuarial reporting and funding requirements and a uniform basis for the distribution of state aid to Pennsylvania's public pension plans.

Annual state aid allocations are provided from a 2 percent foreign (out-of-state) casualty insurance premium tax, a portion of the foreign (out-of-state) fire insurance tax designated for paid firefighters and any investment income earned on the collection of these taxes. Generally, municipal pension plans established prior to December 18, 1984, are eligible for state aid. For municipal pension plans established after that date, the sponsoring municipality must fund the plan for three plan years before it becomes eligible for state aid. In accordance with Act 205, a municipality's annual state aid allocation cannot exceed its actual pension costs.

In addition to Act 205, the City of Pittston Police Pension Plan is also governed by implementing regulations published at Title 16, Part IV of the Pennsylvania Code and applicable provisions of various other state statutes including, but not limited to, the following:

- Act 67 - The Third Class City Code, Act of November 24, 2015 (P.L. 242, No. 67), as amended, 11 Pa. C.S. § 10101 et seq.

The City of Pittston Police Pension Plan is a single-employer defined benefit pension plan locally controlled by the provisions of File of Council No. 1 of 1974, as amended, adopted pursuant to Act 67 (formerly Act 317). The plan is also affected by the provisions of collective bargaining agreements between the city and its police officers. The plan was established January 1, 1960. Active members are required to contribute 5 percent of compensation to the plan. As of December 31, 2019, the plan had 10 active members and 11 retirees receiving pension benefits.

CITY OF PITTSTON POLICE PENSION PLAN
STATUS OF PRIOR FINDING

Partial Compliance With Prior Audit Recommendation

The City of Pittston has partially complied with the prior audit recommendation concerning the following:

- Failure To Fully Pay The Minimum Municipal Obligation Of The Plan

During 2018, the city subsequently made final payments towards its outstanding 2016 MMO obligation totaling \$352,395, plus applicable interest, and deposited \$222,500 towards its outstanding 2017 MMO balance; however, the city had an unpaid 2017 MMO balance remaining in the amount of \$124,682. In addition, during the current audit period, plan officials again failed to properly fund its police pension plan in accordance with Act 205, as further discussed in the Finding and Recommendation section of this report.

CITY OF PITTSTON POLICE PENSION PLAN
FINDING AND RECOMMENDATION

**Finding – Partial Compliance With Prior Audit Recommendation – Failure To Fully Pay
The Minimum Municipal Obligation Of The Plan**

Condition: As disclosed in the Status of Prior Finding section of report, the city partially complied with the prior recommendation by depositing the outstanding 2016 MMO, along with appropriate interest, and a portion of the outstanding 2017 MMO due to the police pension plan. However, an outstanding 2017 MMO balance remains in the amount of \$124,682 as of the date of this report. In addition, a similar condition occurred during the current audit period. The city did not timely or fully pay the 2018 MMO due its plan in accordance with Act 205. The municipality had an additional outstanding MMO balance of \$93,420 for the year 2018.

Criteria: With regard to the MMO, Section 302(c) of Act 205 states, in part:

Annually, the chief administrative officer of the pension plan shall determine the minimum obligation of the municipality with respect to the pension plan for the following plan year.

Section 302(d) of Act 205 states, in part:

The minimum obligation of the municipality shall be payable to the pension plan from the revenue of the municipality.

Furthermore, Section 302(e) of Act 205 states:

Any amount of the minimum obligation of the municipality which remains unpaid as of December 31 of the year in which the minimum obligation is due shall be added to the minimum obligation of the municipality for the following year, with interest from January 1 of the year in which the minimum obligation was first due until the date the payment is paid at a rate equal to the interest assumption used for the actuarial valuation report or the discount rate applicable to treasury bills issued by the Department of Treasury of the United States with a six-month maturity as of the last business day in December of the plan year in which the obligation was due, whichever is greater, expressed as a monthly rate and compounded monthly.

Cause: Municipal officials indicated that the city's inability to meet its full MMO obligation in a timely manner is a result of the increasing demand of the pension obligations relative to the city's overall budget.

CITY OF PITTSTON POLICE PENSION PLAN
FINDING AND RECOMMENDATION

Finding – (Continued)

Effect: The failure to fully pay the MMOs could result in the plan not having adequate resources to meet current and future benefit obligations to its members. In addition, the failure to timely pay the MMOs results in additional required interest charges and further strain on the city’s financial resources that would not be necessary had the MMOs been paid timely in accordance with Act 205 requirements.

Due to the municipality’s failure to fully pay the 2017 and 2018 MMOs by their respective December 31, deadlines, the municipality must add the outstanding MMO balances to the current year’s MMO and include interest, as required by Act 205.

Furthermore, the city’s future state aid allocations may be withheld until the finding recommendation is complied with.

Recommendation: We recommend that the municipality pay the outstanding MMOs due to the police pension plan for the years 2017 and 2018, with interest, in accordance with Section 302(e) of Act 205. A copy of the interest calculation must be maintained by the city for examination during our next audit of the plan.

Furthermore, we recommend that, in the future, plan officials fully pay the annual MMO due the pension plan in accordance with Act 205.

Management’s Response: Municipal officials agreed with the finding without exception and provided the following additional response:

This memo is intended to respond to the Auditor General’s request for information pertaining to the City’s ongoing efforts for “Administrative Improvement” into the City’s remedial plan to address the MMO Pension funding deficits for the years 2017 and 2018. The City of Pittston makes timely deposits of employee contributions with each payroll. The pension plans are governed by the Third Class City Code and separate plan documents. The Police have seen a steady increase in their contributions over the last two negotiated Collective Bargaining Agreements (CBA) and currently contribute 5 percent per month. Also, in the most recent CBA negotiated with the City’s Firefighters the new hires in the Fire Bureau contribute 5 percent while employees hired prior to 2017 will contribute 3 percent of their wages in 2021, 4 percent in 2022 and 5 percent in 2023.

CITY OF PITTSTON POLICE PENSION PLAN
FINDING AND RECOMMENDATION

Finding – (Continued)

The City negotiated additional concessions in both the Police and Firefighter CBA's that will impact the City's future MMO obligations with no new benefit improvements scheduled for the Police, Firefighters or Non-uniformed pension plans. The current Police CBA contains a minimum of fifty-five (55) years of age and twenty (20) years of service in order to collect full retirement benefits for officers hired after September 1, 2019 (there was no age requirement in previous Agreements) and for all officers hired after September 1, 2019, post retirement survivor benefits are reduced from one hundred percent (100%) to fifty percent (50%) of the monthly pension benefit the officer is eligible to receive.

In 2018, in a major refunding, the City borrowed \$2.1 million to improve the deficiency in the Police Pension Plan. The City realized a decrease in the City's MMO for 2019 and 2020 and used the decreased MMO obligation to help reduce the deficiencies created in prior year MMO funding. The City stated that it would require two to three years to completely meet the MMO deficiency which at that time was in excess of \$500,000. The City has paid in full the 2019 MMO and the 2020 MMO while continuing to pay off the delinquent 2017 and 2018 MMO's representing a clear commitment by the City to meet its Pension obligations. As of this date the City owes \$331,419 for 2017 and 2018 and has included dedicated Real Estate millage of 1.42 mills for Pension System Recovery equal to approximately \$300,00 [sic] and FY2021 General Fund budgeted contributions of \$429,000 to be used to pay 2021 MMO obligations with the balance to be paid toward the delinquent 2017 and 2018 totals.

This brief overview of the City's plan for Administrative Improvement will demonstrate the City's ongoing attention to the City's pension challenges and to the City Administration's commitment in addressing the delinquent payments in the pension fund while remaining fully compliant in meeting current year MMO obligations. Thank you in advance for your consideration of this improvement Plan information.

Auditor's Conclusion: The department acknowledges the increasing demand of the pension obligations relative to the city's overall budget and the city's on-going commitment to address its delinquent payments relative to the plan and commend them for recent efforts in funding the plan's 2019 and 2020 obligations. We are concerned by the city's inability to correct this previously reported audit finding and strongly encourage timely implementation of the recommendation noted in this audit report. Due to the aforementioned potential withhold of state aid, the city's compliance with the finding recommendation will be monitored subsequent to the release of the audit report and through our next audit of the plan.

CITY OF PITTSTON POLICE PENSION PLAN
POTENTIAL WITHHOLD OF STATE AID

A condition such as that reported by the finding contained in this audit report may lead to a total withholding of state aid in the future unless the finding is corrected. However, such action will not be considered if sufficient written documentation is provided to verify compliance with this Department's recommendation. Such documentation should be submitted to: Department of the Auditor General, Bureau of Municipal Pension & Liquor Control Audits, 314 Finance Building, Harrisburg, PA 17120.

CITY OF PITTSTON POLICE PENSION PLAN
 SUPPLEMENTARY INFORMATION
 (UNAUDITED)

SCHEDULE OF FUNDING PROGRESS

Historical trend information about the plan is presented herewith as supplementary information. It is intended to help users assess the plan's funding status on a going-concern basis, assess progress made in accumulating assets to pay benefits when due, and make comparisons with other state and local government retirement systems.

The actuarial information is required by Act 205 biennially. The historical information, beginning as of January 1, 2015, is as follows:

	(1)	(2)	(3)	(4)
Actuarial Valuation Date	Actuarial Value of Assets (a)	Actuarial Accrued Liability (AAL) - Entry Age (b)	Unfunded (Assets in Excess of) Actuarial Accrued Liability (b) - (a)	Funded Ratio (a)/(b)
01-01-15	\$ 2,848,211	\$ 4,830,604	\$ 1,982,393	59.0%
01-01-17	3,310,541	5,436,841	2,126,300	60.9%
01-01-19	5,813,437	5,908,110	94,673	98.4%

Note: The market value of the plan's assets at 01-01-17 and 01-01-19 has been adjusted to reflect the smoothing of gains and/or losses over a 5-year averaging period. These methods will lower contributions in years of less than expected returns and increase contributions in years of greater than expected returns. The net effect over long periods of time is to have less variance in contribution levels from year to year.

CITY OF PITTSTON POLICE PENSION PLAN
SUPPLEMENTARY INFORMATION
(UNAUDITED)

The comparability of trend information is affected by changes in actuarial assumptions, benefit provisions, actuarial funding methods, accounting policies, and other changes. Those changes usually affect trends in contribution requirements and in ratios that use the actuarial accrued liability as a factor.

Analysis of the dollar amount of the actuarial value of assets, actuarial accrued liability, and unfunded (assets in excess of) actuarial accrued liability in isolation can be misleading. Expressing the actuarial value of assets as a percentage of the actuarial accrued liability (Column 4) provides one indication of the plan's funding status on a going-concern basis. Analysis of this percentage, over time, indicates whether the system is becoming financially stronger or weaker. Generally, the greater this percentage, the stronger the plan.

CITY OF PITTSTON POLICE PENSION PLAN
 SUPPLEMENTARY INFORMATION
 (UNAUDITED)

SCHEDULE OF CONTRIBUTIONS

<u>Year Ended December 31</u>	<u>Actuarially Determined Contribution</u>	<u>Actual Contributions</u>	<u>Contribution Deficiency (Excess)</u>	<u>Covered- Employee Payroll</u>	<u>Contributions as a Percentage of Covered- Employee Payroll</u>
2014	\$ 334,650	\$ 334,650	\$ -	\$ 399,172	83.84%
2015	347,421	347,421	-	441,583	78.68%
2016	352,395	352,395	-	524,612	67.17%
2017	426,027	22,767	403,260*	556,848	4.09%
2018	105,892	12,472	93,420*	522,218	2.39%
2019	108,173	108,173	-	536,912	20.15%

** The 2017 and 2018 funding deficiencies were disclosed in the finding and recommendation section of this report.*

CITY OF PITTSTON POLICE PENSION PLAN
SUPPLEMENTARY INFORMATION
NOTES TO SUPPLEMENTARY SCHEDULES
(UNAUDITED)

The information presented in the supplementary schedules was determined as part of the actuarial valuation at the date indicated. Additional information as of the latest actuarial valuation date follows:

Actuarial valuation date	January 1, 2019
Actuarial cost method	Entry age normal
Amortization method	Level dollar
Remaining amortization period	6 years
Asset valuation method	5-year smoothing method
Actuarial assumptions:	
Investment rate of return	7.5%
Projected salary increases	4.5%

CITY OF PITTSTON POLICE PENSION PLAN
REPORT DISTRIBUTION LIST

This report was initially distributed to the following:

The Honorable Tom W. Wolf
Governor
Commonwealth of Pennsylvania

The Honorable Michael Lombardo
Mayor

Mr. Michael Lombardo, Esq.
Council Vice President

Mr. Joseph Moskovitz
City Administrator

This report is a matter of public record and is available online at www.PaAuditor.gov. Media questions about the report can be directed to the Pennsylvania Department of the Auditor General, Office of Communications, 229 Finance Building, Harrisburg, PA 17120; via email to: news@PaAuditor.gov.